# Grievance Procedures (6 AAC 65.010-65.990)

For Individuals With Disabilities Who Believe That They Have Been Discriminated Against, Because Of A Disability, By The State Of Alaska

State of Alaska Americans with Disabilities Act Compliance Office

## State of Alaska Policy Against Discrimination

It is the policy of the State of Alaska that:

- No qualified individual with a disability shall be excluded, by reason of such disability, from the participation in or be denied the benefits of the services, programs, or activities of a state agency or be subjected to discrimination by any agency.
- No agency shall discriminate against a qualified individual with a
  disability, because of the disability of such individual, in regard to job
  application procedures, the hiring, advancement, or discharge of
  employees, employee compensation, job training, or any other term,
  condition, and privilege of employment.
- Each agency shall operate each of its services, programs and activities so that a service, program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with disabilities.
- Each agency shall ensure that services, programs and activities conducted through state grants or contracts are accessible to and useable by individuals with disabilities.

#### Introduction:

This pamphlet describes the State of Alaska ADA complaint procedure. The procedure is designed to informally resolve a conflict with a state agency if you believe that an agency is not in compliance with Title II of the Americans with Disabilities Act of 1990 (ADA). Tittle II of the ADA requires that state government programs, services and benefits be accessible to individuals with disabilities.

In accordance with AS 44.21.505, employment discrimination complaints subject to Title I of the ADA will be referred to the state office of equal employment opportunity in the Department of Administration.

On May 22, 1992, Governor Hickel established, through Administrative Order No. 129, the Americans with Disabilities Act compliance program for the executive branch of Alaska State Government. The purpose of the order and the establishment of the ADA compliance program is to:

- 1. Prevent and eliminate discrimination against individuals with disabilities in employment and public services within state government; and
- 2. Establish polices, guidelines, and procedures for state agencies to follow in order to comply with title I and title II of the Americans with Disabilities Act of 1990.

In order to ensure that the state ADA compliance program was implemented, the governor appointed the director of the Alaska Division of Vocational Rehabilitation to serve as the state ADA Coordinator, and ordered all executive branch Commissioners to appoint departmental coordinators. Department and division ADA Coordinators are the first point of contact for filing an ADA complaint with a state agency.

## **Complaints:**

- **A. Who May File:** Anyone who believes that they, or a specific class of individuals, have been subjected to discrimination on the basis of a disability by a state agency may file a complaint. An authorized representative may file on your behalf.
- **B.** Where and Who to File With: A complaint is filed by contacting the ADA coordinator of the department or division where the discriminatory

practice or action happened. (A list of the executive branch ADA coordinators is provided at the end.)

- C. Qualified State Employee and Applicant Complaints: All employment discrimination complaints will be referred to the state office of equal employment opportunity in the Department of Administration, if an ADA issue cannot be resolved between a qualified state employee or applicant and a state agency.
- **D. Time for filing:** A complaint may be filed at any time within 90 days from the date of the discriminatory practice or action. There must be compelling reasons (good cause) for extending the 90 day time limit for filing a complaint.
- **E.** Contents of Complaint: The complaint must be in writing and be signed by either you or your representative. The complaint must contain the following information (see <u>complete complaint</u> in the definitions section):
  - 1.) Your name, address, and a phone number or TTY number where you can be reached;
  - 2.) The state agency where you feel the discrimination occurred; and
  - 3.) A detailed description of the discriminatory practice or action which occurred.
- **F.** Requesting Assistance to Write a Complaint: If you need assistance to write the complaint and are unable to locate someone to assist you, a department or division ADA coordinator will, upon request, assist you in locating an advocate or representative who is not associated with their agency to assist you.

\*The name, location and both phone and TTY numbers of each agency's ADA coordinator is posted in a prominent and accessible location at their state facility.

G. Filing a Complaint with the Human Rights Commission or the Federal Government. You are under no obligation to use the state complaint procedure before filing a formal complaint with the State Commission on Human Rights, the Department of Justice, or The Equal Employment Opportunity Commission. The state ADA complaint

procedure is an informal process. It is designed solely for the purpose of promptly and fairly resolving an ADA complain with a state agency. Department and division ADA coordinators will provide you with instructions on how to file a formal complaint if you wish to do so. (instructions for filing a formal title II complain are provided at the end of this brochure.)

You have 180 days to file a complaint with the US Department of Justice or EEOC, and 300 days to file with the Alaska Human Rights Commission (AHRC).

**H. Retaliation:** State agencies are prohibited from obstructing, intimidating, coercing, or retaliating against individuals with disabilities, or their representatives, who file an ADA complaint against a state agency.

## **Complaint Procedure:**

- **Step 1:** Address a <u>complete complaint</u> (see definitions) in writing to the ADA coordinator of the state agency where the discrimination occurred.
- **Step 2:** (a) Within 10 working days of having received the complete complaint the agency ADA coordinator will meet with you personally or by telephone or TTY. The purpose of the meeting will be to resolve the complaint.

\*If you need an auxiliary aid or service at the meeting (i.e.: an interpreter, reader, larger print, Brailled materials, or cassette tape), you must let the ADA coordinator know in advance so he or she may effectively communicate with you.

## Step 3:

- a) If a satisfactory resolution is reached at the meeting, a written agreement will be jointly developed and signed by you, the agency ADA coordinator and the Commissioner or the department where the complain was filed. The formal agreement will be issued to you within 10 days of the meeting and will be in an accessible format, if necessary. The written agreement will include:
  - 1) a description of the complaint;
  - 2) a finding of facts;

- 3) a description of how the complaint with be resolved;
- 4) when the complaint will be resolved; and,
- 5) an assurance that the agency will comply with the specific terms of the agreement.
- b) If the agency is unable to resolve the complaint, you will be notified in writing and in accessible format, if necessary, within 10 days of the meeting of the reason (s) why the agency was unable to resolve the complaint. The notification will include:
  - 1) a description of the complaint;
  - 2) a summary of any resolution proposed; and
  - 3) a statement concerning the issues which could not be resolved.

\*If the complaint is filed at the division level of a state department and the division ADA coordinator is unable to resolve the complaint, you may request a review of the complaint by the department ADA coordinator. The department ADA coordinator will meet with you and attempt to resolve the complaint using the procedures and timelines outlined in step 2, above.

- **Step 4:** You may request a review of the complaint by the state ADA coordinator if a satisfactory resolution is not reached through the division or department ADA coordinator. You must request this review within 10 days of the time you received notification that a department level ADA coordinator was unable to resolve the complaint. Your request must be in writing and must include:
- a) your name, address, and telephone number or TTY number, if applicable;
- b) a detailed statement of the reason (s) for your request of a review of the complaint;
- c) the name of the state agency which was unable to resolve the complaint; and
- d) your signature of that of your representative.
- **Step 5:** The state ADA coordinator will issue a written response to your request for review of the complaint within 30 days. The written response will be sent to both you and the state agency.

\*If the state ADA coordinator finds that the complaint can be resolved, the state ADA coordinator will work with the department commissioner to resolve the complaint.

\*If the state ADA coordinator finds that the agency in question is in compliance with the ADA or has not engaged in discriminatory activities against you, the state coordinator will advise you of the steps necessary to file a formal complaint with the AHRC or the federal government.

#### **DEFINITIONS:**

Complete Complaint: (see "Complaints" part D, "Content of Complaint") a signed written statement by you, or your representative, that contains your name, address, and telephone or TTY number, and describes the discrimination you believe to have occurred in enough detail to inform the agency of the nature and date of the occurrence. Complaints filed on behalf of classes or third parties must describe or identify (by name, if possible) the individuals who are alleged to have been subjected to discrimination.

Accessible Format (auxiliary aid or service): the provision of auxiliary aids and services to ensure effective communication. Auxiliary aids and services include a wide range of services that promote effective communication and provide an easily understood means of presenting written and spoken information.

Examples of auxiliary aids and services for individuals who are deaf or hard of hearing are qualified interpreters, note takers, computer aided transcription services, written materials, telephone handset amplifiers, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunication devices for deaf persons (TTYs), and video text displays. Providing written materials in Braille, large print or on cassette tapes are examples of accessible formats for individuals who are blind or visually impaired.

**Agency:** an administrative department, division or representative office of the State of Alaska Executive Branch of government.

**State ADA Coordinator:** an official from within the state appointed by the governor to:

- (a) Coordinate and direct the activities of agencies under Administrative Order No. 129 and the efforts of the state agencies to comply with the title I and title II of the ADA;
- (b) Serve as the state's primary contact and liaison with the public and agencies on compliance issues regarding the ADA and the state ADA Compliance Program;
- (c) Ensure compliance with the order;
- (d) Communicate to the public and interested individuals information regarding the ADA Compliance Program and the names, office addresses and telephone numbers of agency ADA coordinators appointed under the administrative order;
- (e) Serve as the primary point of service for, and overall coordination of, the state's response to all ADA complaints filed against state agencies where the allegations are that the state discriminated in its services, policies or practices, or failed to comply with the Americans with Disabilities Act.

## Physical or mental impairment:

- (a) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or
- (b) any mental or psychological disorder, such as mental retardation, organic brain syndrome, traumatic brain injury, emotional or mental illness, and specific learning disabilities. The phrase "major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

A qualified individual with a disability with respect to employment means an individual with a disability who satisfies the requisite skill, experience, education and other job related requirements of the employment position such individual holds or desires, and who, with or without

reasonable accommodation, can perform the essential functions of such position.

A qualified individual with a disability under title II of the ADA means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a state agency.

**Department ADA Coordinator:** an official who serves as the overall administrator of an executive branch department's ADA compliance program. The department ADA Coordinator receives guidance and direction from the department commissioner and the state ADA coordinator on matters dealing with the ADA. Department coordinators are responsible for reviewing and attempting to resolve ADA complaints if they are not resolved by division ADA coordinators.

**Division ADA Coordinator:** Executive branch departments are broken down into smaller units called divisions which perform a specific function, or provide a specific program or service within the department. The division ADA Coordinator is an official from within the division who serves as the administrator of the division's ADA compliance activities. Division coordinators are responsible for resolving ADA complaints against the division.

**Teletype Telephone (TTY)** (also referred to as a text phone): a telephone with a typewriter keyboard attached which enables individuals who are deaf or experience speech disorders to effectively communicate via the telephone. The TTY transmits typed messages. The typed messages appear either on a display screen or on a ticker tape.

#### TERMS DEFINED IN THE ADA

**Disability,** with respect to an individual:

- (a) a physical or mental impairment that substantially limits one or more major life activities of such individual;
- (b) having a record of such impairment, or;
- (c) being regarded as having such an impairment.

## **ADA Coordinators by Department**

#### **State ADA Coordinator**

801 West 10<sup>th</sup> Street, Suite A Juneau, Alaska 99801-1894

PH: 465-2814 TTY: 465-2814 FAX: 465-2856

### **Public Safety**

450 Whittier St. POB 111200

Juneau, Alaska 99811-1200

PH: 465-4365 TTY: 465-5491 FAX: 465-5332

#### Fish & Game

1255 W 8<sup>th</sup> St. POB 25526

Juneau, Alaska 99811-5526

PH: 465-4140 TTY: 465-3646 FAX: 465-2440

## **Community & Economic Development**

9<sup>th</sup> Floor State Office Building

POB 110803

Juneau, Alaska 99811-0803

PH: 465-5438

TTY: 1-800-770-4833

FAX: 465-2563

# **Labor and Workforce Development**

1111 8<sup>th</sup> St. Suite 308

POB 21149

Juneau, Alaska 99802-1149

PH: 465-5952 TTY: 465-5952 FAX: 465-8753

#### **Natural Resources**

400 Willoughby Ave. 5<sup>th</sup> Floor Juneau, Alaska 99801-1724

PH: 465-2409

TTY: 465-2409 ext. 3888

FAX: 465-2492

## Military & Veterans Affairs

400 Willoughby Ave. 5<sup>th</sup> Floor Juneau, Alaska 99801-1724

PH: 465-2409

TTY: 465-2409 ext. 3888

FAX: 465-2492

#### Revenue

11<sup>th</sup> Floor State Office Building POB 110410

Juneau, Alaska 99811-0400

PH: 465-2308 TTY: 465-3678 FAX: 465-3288

#### Law

Room 205 Assembly Building POB 110300

Juneau, Alaska 99811-0300

PH: 465-3672 TTY: 465-3626 FAX: 465-5419

## **Education & Early Development**

801 W. 10<sup>th</sup> St. Suite 200 Juneau, Alaska 99801-1894

PH: 465-2880 TTY: 465-2880 FAX: 465-2110

#### **Environmental Conservation**

410 Willoughby Ave. Suite 105 Juneau, Alaska 99801-1795

PH: 465-5040

TTY: 1-800-770-8973

FAX: 465-4098

#### Corrections

802 3<sup>rd</sup> St.

Douglas, Alaska 99824

POB 112000

Juneau, Alaska 99811-2000

PH: 465-3300 TTY: 465-3274 FAX: 465-2202

#### Administration

10<sup>th</sup> Floor State Office Building

POB 110208

Juneau, Alaska 99811-0208

PH: 465-5657 TTY: 465-2461 FAX: 465-2263

# **Transportation & Public Facilities**

2200 East 42<sup>nd</sup> Ave.

PO Box 196900

Anchorage, Alaska 99519-6900

PH: 269-0851 TTY: 269-0473 FAX: 269-0847

#### **Health & Social Services**

250 Main St.

POB 110650

Juneau, Alaska 99811-0650

PH: 465-3024 TTY: 465-3196 FAX: 465-2384

#### Office of the Governor

240 Main St. Suite 300 POB 110001-0001 Juneau. Alaska 99811-0001

PH: 465-3896 TTY: 465-3514 FAX: 465-1641

### **Legislative Affairs Agency**

Room 311 Goldstein Building 130 Seward St. Suite 313 Juneau, Alaska 99801-2197

PH: 465-3854 TTY: 465-4980 FAX: 465657

# HOW TO FILE A TITLE II COMPLAINT WITH THE DEPARTMENT OF JUSTICE (D.O.J):

Title II prohibits discrimination based on disability in all programs, activities, and services of State and local governments.

If you feel you or another person have been discriminated against by any agency, organization, or institution covered by title II, you have a right to file a formal complaint by sending a letter to the D.O.J., You must include the following information:

- Your full name, address, and telephone number, and the name of the party discriminated against;
- The name of the agency, organization, or institution that you believe has discriminated;
- A description of the act or acts of discrimination, the date or dates of the discriminatory acts, and the name or names of the individuals who you believe discriminated: and

• Other information that you believe necessary to support the complaint. Do not send original documents. (Retain them.)

### Sign and send the letter to the address below:

U.S.D.O.J., Civil Rights Division Coord./Review Sec./P.O. Box 66118 Washington, D.C. 20035-6118 202-514-0301 (Voice) 202-514-0383 (TTY)

# THE PROCESS OF FILING AND ADA COMPLAINT WITH A STATE AGENCY

#### STEP 1

Within 90 days of a discriminatory action or practice, complainant files a complete complaint with the ADA coordinator of the agency which is not in compliance with the ADA.

#### STEP 2

Within 10 days of receiving the complaint, the agency ADA coordinator meets with the complainant and attempts to resolve the conflict.

## STEP 3

When an agreement is reached to resolve the issue of the complaint, the agency ADA coordinator will issue a written and signed agreement to the complainant, within 10 days, which will detail the terms of the agreement.

#### OR

#### STEP 3

If the complaint is not resolved, the agency ADA coordinator will issue a notice to the complainant, within 10 days, which describes the issues which could not be resolved.

## STEP 4

The complainant requests, in writing, a review of the complaint by the state ADA coordinator (SADAC).

## **STEP 5**

The SADAC will issue a written response to the complainant within 30 days of receiving the request. The response will describe what actions the state will be taking to resolve the complaint.